



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: May 3, 2023

PLANNER: David Carrillo, Assistant Planner

SUBJECT: **Conditional Use Permit (CUP) 23-072; North Beach Villa Alcohol Service**, a request to allow a full range of alcohol service at an existing bed and breakfast inn with one manager's unit and three guest rooms located in the Neighborhood Commercial 2 Zoning District and Architectural, Affordable Housing, and Coastal Zone Overlay Districts (NC2-A-AH-CZ) at 1410 Calle Mirador, and finding the project is categorically exempt from the California Environmental Quality Act under Section 15301 of the CEQA guidelines (14 CCR § 15301, Class 1: Existing Facilities).

REQUIRED FINDINGS

The following findings shall be made to approve the proposed project. The draft Resolution (Attachment 1) and analysis section of this report provide an assessment of the project's compliance with these findings.

Conditional Use Permit, Zoning Ordinance Section 17.36.020, to allow the sale of beer, wine, liquor, and spirits for on-site consumption.

- a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed.
- b. The site is suitable for the type and intensity of use that is proposed.
- c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.
- d. The proposed use will not negatively impact surrounding land uses.

BACKGROUND

The project site is a recently constructed bed and breakfast on a 4,740 square-foot through lot between North El Camino Real and Calle Mirador. The site is zoned Neighborhood Commercial 2 and is within the Architectural, Affordable Housing, and Coastal Zone overlay districts (NC2-A-AH-CZ). The bed and breakfast was approved by the Planning Commission in 2019 via Resolution 19-019.

The site abuts an unoccupied commercial building to the south and Kelly Moore Paints to the north. Residences within the Residential Medium (RM) zoning district are located to the west across Calle Mirador. Retail and office uses within the Neighborhood Commercial (NC1.2) zoning district and West Pico Corridor Specific Plan are located to the east across North El Camino Real. Nearby land uses include restaurants, offices, retail stores, a Chabad, apartments in a historic building (San Clemente Inn at 1426 N. El Camino Real), and the Rodeway Inn hotel. A vicinity map is provided in Attachment 2.

Figure 1 – North Beach Villas



Development Management Team

The Development Management Team (DMT) first reviewed the project and supports approval of the CUP with the incorporation of the proposed Conditions of Approval.

Noticing

Public notices were distributed and posted per City and State requirements. No comments have been received from the public regarding this project proposal.

PROJECT DESCRIPTION

North Beach Villa owners Eric and Loreen Spink recently completed construction on their new bed and breakfast with three guest units below a top-level owner's unit. The two-story stepped structure includes 2,343 square feet of living area, 659 square feet of garage area, and 830 square feet of deck area. The guest rooms are each approximately 350 square feet each and have access to a shared laundry room, parlor, and an outdoor covered dining area with a buffet. The property owners would like to augment the hospitality experience of their bed and breakfast by offering alcoholic beverages alongside their evening reception (5 p.m. – 8 p.m.) and breakfast (7 a.m. – 9:30 a.m. weekdays and 8 a.m. – 11 a.m. on weekends and holidays).

PROJECT ANALYSIS

Development Standards

"Bed and breakfast inn" uses with less than five guest rooms are permitted by right in the NC2 zone. Bed and breakfast inns are regulated by special use standards (Zoning Ordinance Section 17.28.090). This Section does not discuss the service of alcohol, and neither does the Neighborhood Commercial 2 use table. Hotels are permitted to provide "cocktail lounges" and other commercial facilities as accessory uses without a separate CUP. However, given the specific differentiation of the bed and breakfast use with its own classification in the Zoning Code, staff believes that a conservative approach, of requiring a CUP in a similar fashion to alcohol service at restaurants, is appropriate.

Conditional Use Permit

The purpose of the CUP is to "provide for the review of uses that may, because of their nature, have an impact on the surrounding environment and for the determination of whether or not the proposed use is appropriate for its proposed location." In this case, the service of alcohol under a Type 80 License (Bed and Breakfast Inns – General) would occur on site for the benefit of overnight visitors and regularly with food at the facility provided breakfast. Higher end accommodations regularly include complimentary beverages – such as a welcome toast – or as optional upgrades to overnight stays. That is the intent of the business owner, as further clarified in their project narrative, provided as Attachment 4. The Orange County Sheriff's Department (OCSD), Code Compliance Division, and ABC reviewed the request and support full alcohol service at the bed and breakfast inn with the recommended conditions of approval.

GENERAL PLAN CONSISTENCY

General Plan Table LU-1 indicates that the intent for Neighborhood Serving Commercial (NC) zones is to provide "local-serving retail commercial, personal service, professional office, lodging, cultural facilities, and eating and drinking uses. This goal is mirrored in the Coastal Land Use Plan. The property is within the North Beach / North El Camino Real Focus Area, which is a "coastal visitor-oriented entertainment hub and recreation area."

The Bed and Breakfast is consistent with this intent to provide lodging facilities within this zone, and the addition of ancillary alcohol service is consistent with supporting a visitor-serving use. Reference Attachment 3 for a General Plan Consistency table.

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA)

The Planning Division completed an initial environmental assessment of the project per the California Environmental Quality Act (CEQA). Staff recommends the Planning Commission determine the project is Categorically Exempt from CEQA pursuant to Section 15301 (Class 1: Existing Facilities) because the project is limited to operational changes to restaurants in existing buildings.

ALTERNATIVES

The Planning Commission may take any of the following actions:

1. Approve the application with staff recommended conditions of approval.
2. Modify the conditions of approval to effect desired changes prior to approval.
3. Continue the hearing to obtain additional information from the applicants.
4. Deny the application. If the Commission wishes to pursue this option, the hearing will need to be continued to allow the appropriate resolution to be prepared and the Commission should state reasons why it cannot meet one or more of the required findings.

These actions may be appealed by the applicant to the City Council within ten days of the decision pursuant to San Clemente Municipal Code § 17.12.140 or be called up by the City Council for review and action.

RECOMMENDATION

Based on the information in the staff report and subject to the required findings and conditions of approval, staff recommends that the Planning Commission:

1. Determine the project is Categorically Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities); and
2. Adopt Resolution PC 23-006, approving Conditional Use Permit 23-072 – North Beach Villa Alcohol Service, subject to the conditions of approval therein.

Attachments:

1. Resolution No. PC 23-006
Exhibit A - Conditions of Approval
2. Location Map

3. General Plan Consistency Table
4. Project Narrative
5. Plans

RESOLUTION NO. PC 23-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 23-072, NORTH BEACH VILLA ALCOHOL SERVICE, LOCATED AT 1410 CALLE MIRADOR AND FINDING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER SECTION 15301 OF THE CEQA GUIDELINES (14 CCR § 15301, CLASS 1: EXISTING FACILITIES).

WHEREAS, on February 16, 2023, an application was submitted by Eric Spink, 1410 Calle Mirador San Clemente, CA 92672 for Conditional Use Permit (CUP) 23-072 and deemed complete on March 16, 2023; a request to allow the sale of full alcohol for on-site consumption at the North Beach Villa bed and breakfast located at 1410 Calle Mirador, in the Neighborhood Commercial 2 Zoning District and Architectural, Affordable Housing, and Coastal Zone Overlay Districts. The site's legal description is Tract 820, Block 1, Lot 12 and Assessor's Parcel Number 692-362-08; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine the project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities). This is recommended because the project is limited to the North Beach Villa's addition of alcohol sales (ABC Type 80 License) for full range alcohol for on-site consumption; and

WHEREAS, the City's Development Management Team (DMT) reviewed the proposed project on March 2, 2023, and determined it complies with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, on May 3, 2023, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, The Planning Commission of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Planning Commission hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Planning Commission as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Planning Commission, and the facts outlined below, the Planning Commission hereby finds and determines that the proposed project is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities).

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This exemption covers, but is not limited to, interior or exterior alterations, additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. Here, the proposed project consists of allowing the sale of full range alcohol for on-site consumption. The project does not change the existing general use of the site. Thus, the project qualifies for the Class 1 exemption.

Furthermore, none of the exceptions to the use of the Class 1 categorical exemption identified in State CEQA Guidelines section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place over time. Selling full range alcohol at a bed and breakfast in the NC2 zoning district requires a discretionary review to ensure potential impacts are mitigated. The subject zone allows a variety of uses, such as retail, hair salons, offices, restaurants etc. that are operating in the vicinity. There are no unusual circumstances surrounding the project that result in a reasonable possibility of a significant effect on the environment. There are no especially sensitive resources (endangered species, wetlands, etc.) on the project site or in the vicinity. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The project does not include any hazardous waste sites, and the project will not cause a substantial adverse change in the significance of a historical resource. The project is located in a developed mixed use zone with no historical resources nearby. Thus, the Class 1 exemption applies, and no further environmental review is required.

Section 3. Conditional Use Permit Findings

With respect to Conditional Use Permit (CUP) 23-072 for the full alcohol sales for on-site consumption, the Planning Commission finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of Title 17, the San Clemente Municipal Code, the San Clemente General Plan, and the purpose and intent of the zone in which the use is being proposed, in that:
 1. The bed and breakfast's service of full alcohol for on-site consumption is similar to the conditionally permitted use of a restaurant that serves alcohol on site and is consistent with permitted uses in the Neighborhood Commercial 2 (NC2) Zoning District;

2. The use will remain a bed and breakfast which is compatible with the mix of uses in the NC2 zone and will serve overnight visitors.
- B. The bed and breakfast's proposed sale of full alcohol for on-site consumption is consistent with General Plan Policy LU-11.10 in that the project allows the sale of full alcohol for the North Beach Villa, supporting this new visitor-serving business in the North Beach focus area. The use is sensitive to nearby residential properties in that it is limited to the sale of full alcohol for on-site consumption only and does not include amplified sound or live entertainment. Additionally, the request contributes to the mix of uses in North Beach that serve overnight visitors; and
- C. The site is suitable for the type and intensity of use that is proposed, in that:
1. No physical changes to the site are required since the bed and breakfast inn is an established use and the request is limited to the sale of full alcohol for on-site consumption;
 2. The subject site was designed and approved for the bed and breakfast inn, including a lobby and dining area where service of alcohol in conjunction with a meal or social hour is appropriate; and
 3. The project does not intensify the parking demand for the use.
- D. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity, in that:
1. The City's Code Compliance Department, the Orange County Sheriff's Department, and the Department of Alcoholic Beverage Control, support the request and have no issues with the proposed addition of alcohol sales at this boutique bed and breakfast inn;
 2. Alcohol is not available for direct sale, but rather included as an amenity within the overnight reservation at the inn;
 3. The bed and breakfast inn must continue to comply with all code requirements, including but not limited to the Fire Code, California Building Code, Alcoholic Beverage Control (ABC), and the San Clemente Municipal Code, including requirements for employees to receive Responsible Alcoholic Beverage Service Training to avoid the sale of alcoholic beverages to minors for consumption; and
 4. The project is conditioned to ensure it incorporates best management practices to mitigate noise impacts on neighboring properties.

E. The proposed use will not negatively impact surrounding land uses, in that:

1. The service of full range alcohol is only for on-site consumption;
2. Alcohol is not available for direct sale, but rather included as an amenity within the overnight reservation at the inn;
3. The market authorization to sell full range alcohol is conditioned with limited hours of operation from 10:00 am to 8:00 pm Monday through Sunday; and
4. The project does not intensify the parking demand for the use.

Section 4. Planning Commission Approval.

Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente Planning Commission approves Conditional Use Permit 23-072, North Beach Villa Alcohol Service, subject to the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Planning Commission on May 3, 2023.

Chair

CERTIFICATION:

I HEREBY CERTIFY this Resolution was adopted at a regular meeting of the City of San Clemente Planning Commission on May 3, 2023, carried by the following roll call vote:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

Attest:

Secretary of the Planning Commission

CONDITIONS OF APPROVAL
 CONDITIONAL USE PERMIT 23-072,
 NORTH BEACH VILLA ALCOHOL SERVICE

1.0 GENERAL CONDITIONS OF APPROVAL

- | | | |
|-----|--|--------------|
| 1.1 | Within 30 days of receipt of the signed conditions of approval, the applicant shall submit to the City Planner a signed acknowledgment concurring with all conditions of approval on a form to be provided by the City, unless an extension is granted by the City Planner. | Planning |
| 1.2 | The applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of San Clemente and its officers, employees, and agents from and against any claim, action, proceeding, fines, damages, expenses, and attorneys' fees, against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning this project, including but not limited to any approval or condition of approval of the City Council, Planning Commission, or City Planner or environmental finding. Applicant shall pay all costs upon request by the City. The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter at the applicant's expense. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter at the applicant's cost. If the applicant fails to so defend the matter, the City shall have the right, at its own option, to do so and, if it does, the applicant shall promptly pay the City's full cost of the defense. | Planning |
| 1.3 | Use and development of this property shall be in substantial conformance with the approved plans, material boards and other applicable information submitted with this application, and with these conditions of approval. Any modifications to the project shall be reviewed by the City Planner in accordance with Zoning Ordinance Section 17.12.180. | Planning |
| 1.4 | The applicant shall comply with all applicable current and future provisions of the San Clemente Municipal Code, adopted ordinances, and state laws. | All |
| 1.5 | Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations. | Code
Comp |
| 1.6 | Conditional Use Permit 23-072 shall be deemed to have expired if within three years of approval the project is not commenced, or the | Planning |

project permitted by the approved application has lapsed, as defined by Zoning Ordinance Section 17.12.150.

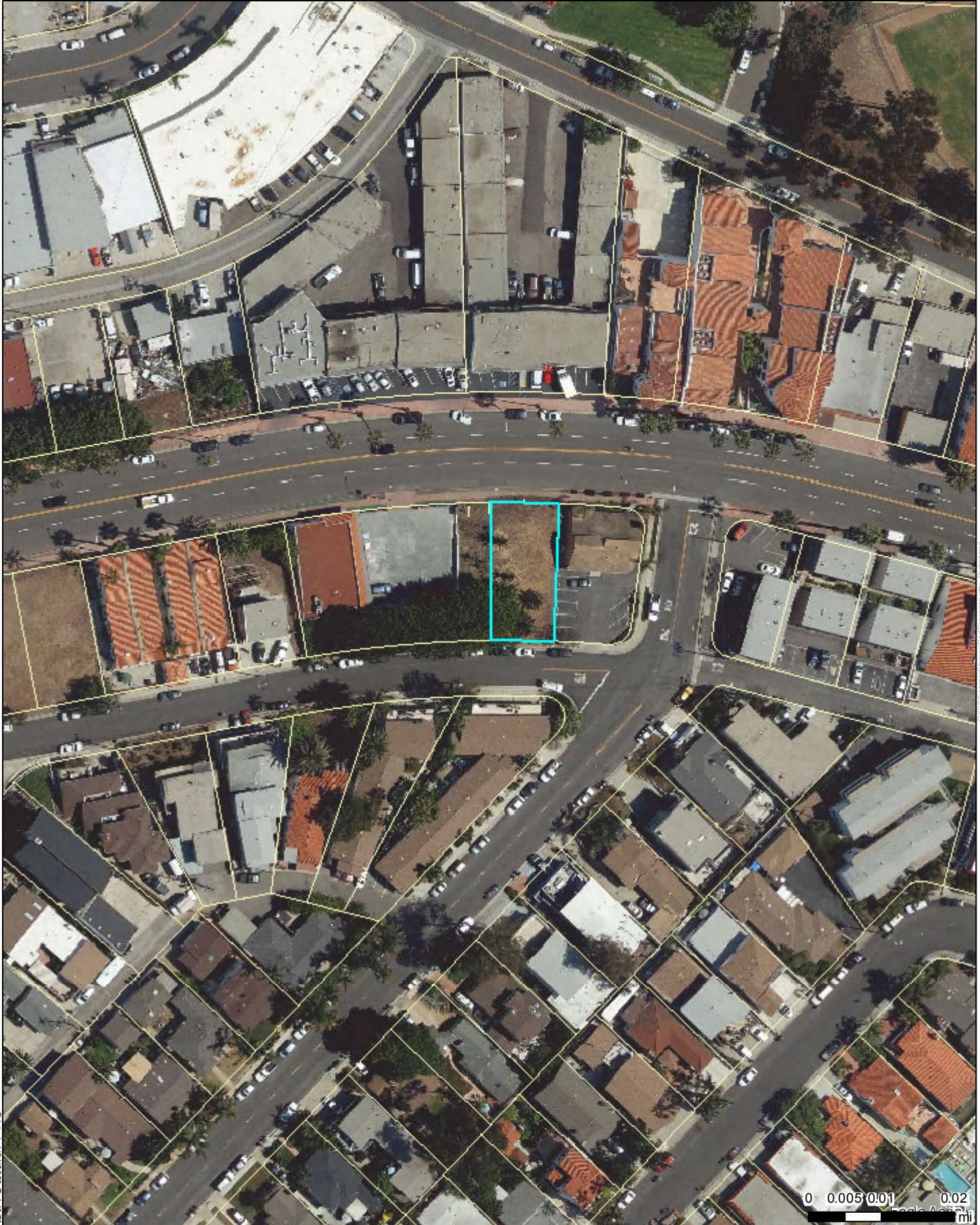
7.0 OPERATIONAL CONDITIONS OF APPROVAL

Businesses Selling Alcoholic Beverages

- | | | |
|-----|--|---------------|
| 7.1 | The sale of beer, wine, liquor and spirits for on-site consumption shall be limited to the hours of 7:00 am to 9:00 pm, daily. Any proposed change to the alcohol service hours shall require an amendment to Conditional Use Permit (CUP) 23-072. | Planning
* |
| 7.2 | All employees shall receive Responsible Alcoholic Beverage Service training as offered through programs established by the Orange County Health Care Agency and Alcoholic Beverage Control of the State of California. Training shall be provided as soon as practical following the hire date of each employee. Evidence of such training shall be maintained on-site during business hours, and made available for inspection by any city official upon request. (SCMC Section 17.16.070). | Code
Comp |
| 7.3 | A manager shall be on the premises at all times, and available to respond to issues raised by representatives from the Orange County Sheriff's Department, Orange County Fire Authority, or City of San Clemente Code Compliance, during the hours of operation when alcohol sales are provided. | Code
Comp |
| 7.4 | These conditions of approval shall be posted in a conspicuous location clearly visible to employees to ensure they are informed of and adhere to requirements and policies for all operations of the business, including but not limited to alcohol sales, when applicable. | Code
Comp |
| 7.5 | The use of amplified sound (including the electronically amplified sound of live music, human voice, or other sound within a business, restaurant, bar, or other commercial establishment) shall not be permitted. This prohibition does not include televisions, radios, or reasonable background or ambient music. | Code
Comp |

* Denotes a modified Standard Condition of Approval

** Denotes a project-specific Condition of Approval



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CUP 23-072, NORTH BEACH VILLA FULL ALCOHOL
1410 CALLE MIRADOR

Table 1 – General Plan Consistency

Policies and Objectives	Consistency Finding
<p><i>Economic Development Element, Policy 4.02.</i> North Beach. We require initiatives, investments, and development approvals for the North Beach area to contribute to our vision of the area as a multi-modal, mixed-use entertainment and recreation district that emphasizes the pedestrian experience and preserves and enhances its key assets. These assets are views of the ocean, access to the beach, a rich inventory of historic resources, access to recreational opportunities and numerous shops and services for residents and visitors alike.</p>	<p>Consistent. The project creates additional economic opportunities by encouraging patrons to enjoy the amenities of the North Beach/North El Camino Real area. The project would provide full alcohol service to bed and breakfast guests.</p>
<p><i>Land Use Element, Mixed-Use Goal:</i> “Promote and support development in areas designated for Mixed Use that is attractively designed, adds vitality and pedestrian activity, enhances economic opportunities, reduces vehicle trips and associated air pollution and offers convenient and affordable housing opportunities for all income levels.”</p>	<p>Consistent. The project would add vitality and pedestrian activity to the North Beach/North El Camino Real area by providing additional amenities. The project would diversify the meal options for guests at the bed and breakfast inn.</p>
<p><i>Urban Design Element, Policy UD-3.06:</i> Police Department Review. We require Police Department review of uses that may be characterized by or historically associated with high levels of noise, nighttime activities, and/or rates of crime; and impose appropriate conditions or land use and design controls to prevent adverse impacts on adjacent uses</p>	<p>Consistent. The Orange County Sheriff’s Department reviewed the application and supports the proposed alcohol service on site for bed and breakfast inn guests.</p>



The North Beach Villa

1410 Calle Mirador
San Clemente, CA 92672

February 16, 2023

Planning
City of San Clemente
910 Calle Negocio, # 100
San Clemente, CA 92673

Re: Letter of Project Narrative
The North Beach Villa
ABC License Number:639721

Dear Planning:

We, the owners of the North Beach Villa, a permitted Bed & Breakfast Inn located at 1410 Calle Mirador in San Clemente, CA have requested a TYPE 80 - BED & BREAKFAST INN – GENERAL license from the CA Department of Alcoholic Beverage Control.

The North Beach Villa is a boutique Bed & Breakfast Inn that provides hotel-like room accommodations to overnight guests. We have three guest rooms and can accommodate up to 15 guests at any given time. We have a covered courtyard and lobby bar area to serve breakfast and an evening reception that consists of light snacks and drinks for our guests. We are not open to the general public and will be offering breakfast and an evening reception to registered guests only. Our breakfast hours will operate from 7:00 AM to 9:30 AM, Monday through Friday, and 8:00 am to 11:00 am on weekends and holidays, and the evening reception from 5:00 PM to 8:00 PM, seven days a week.

As with Bed & Breakfast Inns, both food and beverages are integral to the business plan and the overall environment of the Inn. The experience of lodging in a small boutique-style Bed & Breakfast Inn necessitates consideration to the consumption of spirits, such as liqueurs, wines, champagnes, and beers. We intend to provide our guests with a full range of the hospitality experience.

We will only be serving to registered guests of our establishment for consumption on the premises. Alcoholic beverages will not be given away to guests, nor will they be sold or priced by the glass or bottle. The price of the alcoholic beverage will be included in the price of the overnight transient occupancy accommodation. Removal of alcoholic beverages from the grounds will not be permitted.

We expect that approximately 5% of revenue to come from alcohol, and 95% from overnight lodging. We, as the owners, live onsite and will be managing the North Beach Villa. We are experienced and are trained in food safety and alcoholic beverage service and have or will have RBS Certifications.

We are the only lodging house in the area seeking to serve alcohol. Of the 16 licensed establishments in our census tract, fourteen (14) are restaurants and bars, one (1) is an event center, and one (1) is a club,

The North Beach Villa

1410 Calle Mirador
San Clemente, CA 92672



so our establishment is very unique. As a matter of fact, we would be the only licensed Bed & Breakfast Inn in San Clemente, and only one of two licensed Bed & Breakfast Inns in all of Orange County.

The surrounding area of San Clemente lacks higher-end, boutique-style, luxury accommodations for visitors and tourists to the area. Our unique Bed & Breakfast Inn helps meet that demand. The North Beach Villa is in San Clemente's North Beach neighborhood, an economically distressed community. The North Beach Villa adds to the efforts of the City of San Clemente to revitalize and improve the North Beach area economy in several positive ways: we purchased a vacant lot and built the Inn tailored to the Spanish Colonial Revival architecture as desired by the City's General Plan. We have invested a considerable amount of money in constructing the Inn with upscale features to the exterior and interior. This investment is a commitment to the community to provide a quality product in a safe and secure environment.

We believe these reasons allow our Bed & Breakfast Inn to serve the residents of San Clemente and travelers and tourists to the area convenience and necessity by issuance of the license.

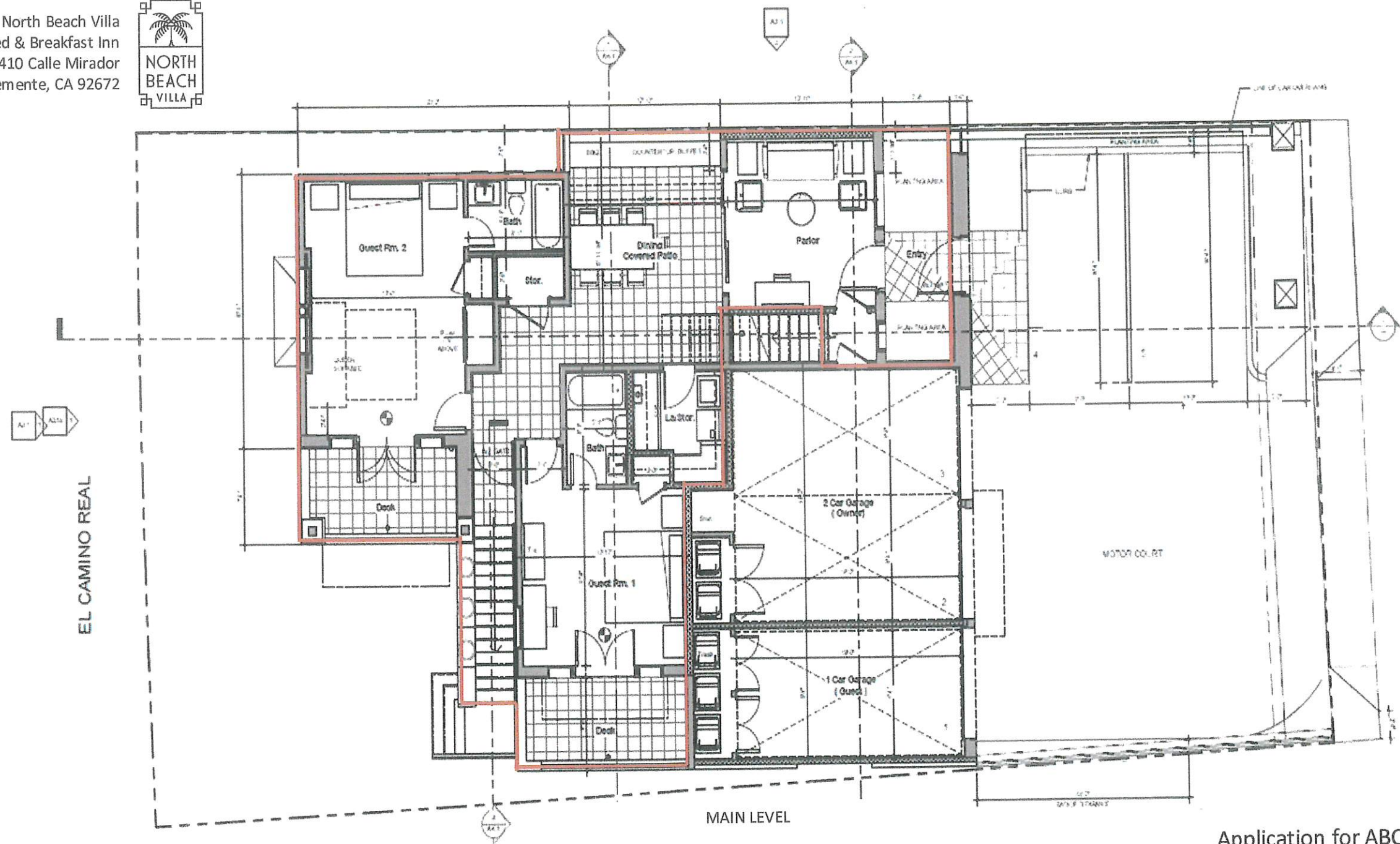
Thank you for your consideration.

THE NORTH BEACH VILLA, LLC

A handwritten signature in black ink, appearing to read "Eric Spink", written over a horizontal line.

Eric Spink, Manager

North Beach Villa
Bed & Breakfast Inn
1410 Calle Mirador
San Clemente, CA 92672



EL CAMINO REAL

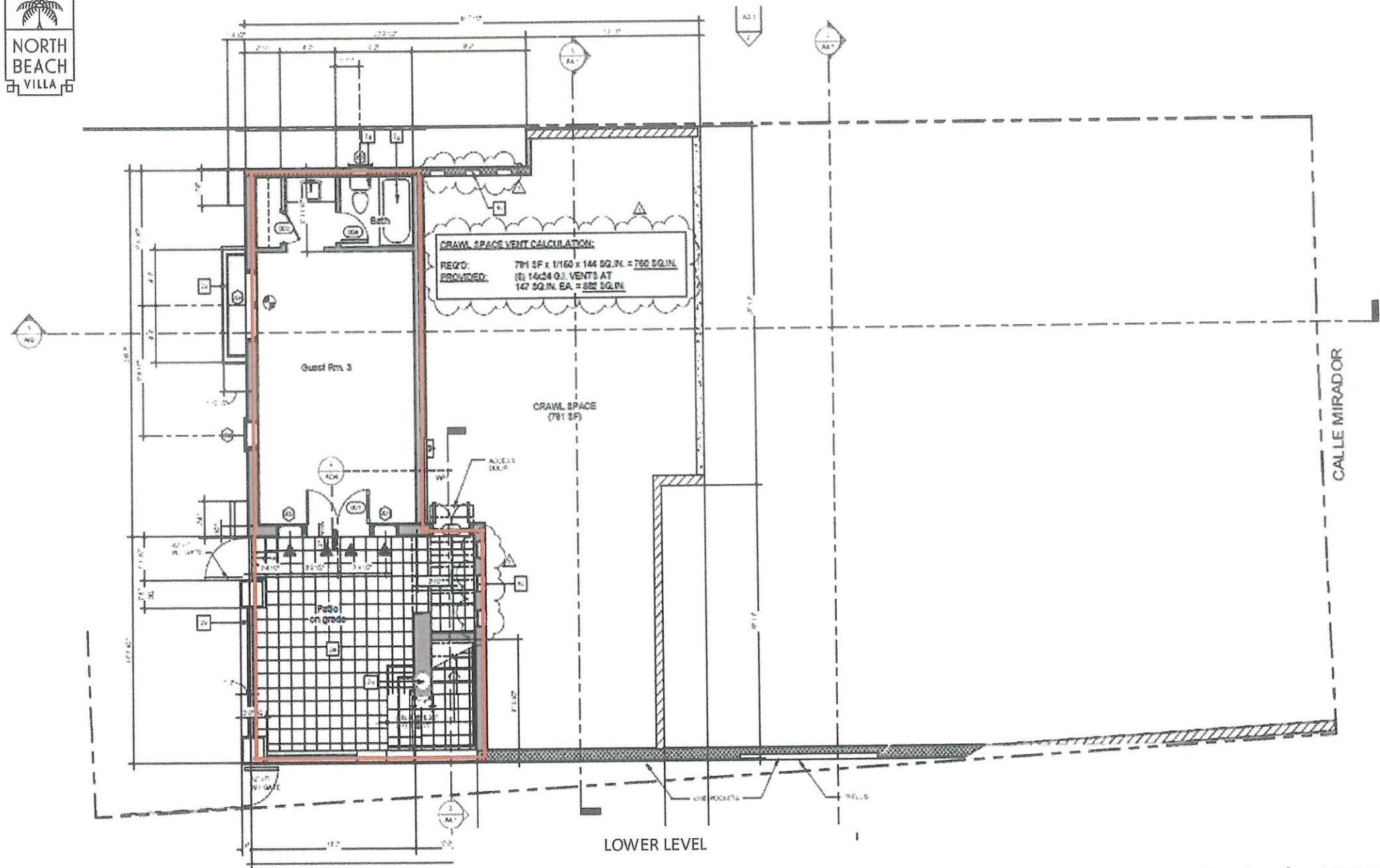
MAIN LEVEL

— Licensed Area Boundary

Dwg 1 of 3

Application for ABC Type 80 License
Bed & Breakfast Inn - General

North Beach Villa
 Bed & Breakfast Inn
 1410 Calle Mirador
 San Clemente, CA 92672



Dwg 2 of 3

Licensed Area Boundary

Application for ABC Type 80 License
 Bed & Breakfast Inn - General